

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
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RICHARD FEINER AND CO., INC., 07 CV 11218 (RMB)

Plaintiff,

-against-

THE NEW YORK TIMES COMPANY,  
PHOTOFEST, INC. and  
HOWARD MANDELBAUM,

**PLAINTIFF ATTORNEY'S  
DECLARATION IN OPPOSITION TO  
THE DEFENDANTS' MOTION TO  
DISMISS THE PLAINTIFF'S  
COMPLAINT**

Defendants.

-----x

State of New York     )  
                              ) s.ss:  
County of New York    )

Gregory A. Sioris, an attorney duly admitted to practice before  
this Court declares as follows:

1. I represent the plaintiff in this suit and maintain my office  
at 350 Fifth Avenue, Suite 7606, New York, NY 10118-7606. I make  
this declaration on my personal knowledge of the facts.

2. At the Court's pre-motion conference on April 16, 2008, at  
which I attended on behalf of the plaintiff, the Court admonished  
the defendants not to make a motion for summary judgment or it  
will be denied. It appears that the defendants have gone beyond a  
motion to dismiss the plaintiff's complaint and moved for summary  
judgment, as explained in plaintiff's accompanying memorandum of  
law.

3. Exhibit A contains a true copy of the cover page of the  
*House&Home* section of The New York Times, dated May 3, 2007, and a

portion of the article *Easy, Mr. Fix It*. The remaining portion of exhibit A is a true copy of the New York Times' Internet web site showing a digital publication of the same article *Easy, Mr. Fix It*.

4. Exhibit B is a true copy of a page from the Internet web site of defendants Photofest and Mandelbaum, as copied by me on August 6, 2007 which prominently displays a still image of Stan Laurel and Oliver Hardy.

5. Exhibit I is a true copy of an invoice to the New York Times from defendant Photofest, Inc. dated 5/7/2007 seeking payment of \$400.00 for Photofest granting the New York Times the use of one of the images complained of in the plaintiff's complaint as derived from the Laurel & Hardy motion picture *Hog Wild*. This invoice was provided to me by the defendants in response to a discovery demand on May 23, 2008.

I declare under penalty of perjury that the foregoing is true and correct. Executed at New York, NY on May 29, 2008.

s/Gregory A. Sioris (GS 1342)  
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